

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2017/0338
Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 1 DP 586163, 4 Notting Lane COTTAGE POINT NSW 2084
Proposed Development:	Modification of Development Consent DA2013/0677 granted for Alterations and additions to a dwelling house
Zoning:	Warringah LEP2011 - Land zoned E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Garry David Sexton Dawn Marjorie Sexton
Applicant:	Garry David Sexton
Application lodged:	21/12/2017
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	27/12/2017 to 29/01/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;

- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 1 DP 586163 , 4 Notting Lane COTTAGE POINT NSW 2084
Detailed Site Description:	<p>The site is located on the eastern side of Notting Lane and has an area of 1,098 square metres (sqm) with a frontage of 25 metres (m) to the street and a depth of 47.2m. The property has an irregular shape with water frontage to Coal and Candle Creek estuary. The site contains a part two-storey dwelling house built toward the foreshore and a smaller detached cottage (previously used for tourist accommodation) built close to Notting Lane. The site also contains a detached garage, located toward the southern side of the property and a boatshed adjacent the shoreline.</p> <p>Surrounding development includes detached dwelling houses to the north and south of the site and bushland to the west. Cottage Point General Store and Marina is located 50m north of the site.</p>

Map:



SITE HISTORY

The site has a long history of residential use as an existing dual occupancy. For a period of time the site was used for tourist accommodation (now ceased). Correspondence from Council, dated 19 May 1983, recognized the existing two dwellings situated on site benefit from existing use rights (as a dual occupancy), whereby two fibro-dwellings were approved under building application plans No.307/5/46 and No.73/2/47 for "Windybank".

Development Application No.DA2013/0677 for alterations and additions (to the main dwelling house) was approved on 12 September 2013.

Development Application No.DA2001/1155 for demolition work and the construction of a dwelling, garage and boatshed was approved by Council on 10 April 2002.

Building Application No.BA5002/9470 for alterations and additions (compost toilet) was approved by Council on 2 February 1995. Site plans show the presence of two dwellings on the property.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves the following modification work to development consent No.DA2013/0677 granted for alterations and additions to a dwelling house. Details of the proposed works are:

- Modification of the southern wall of the master bedroom to be in line with the adjacent bathroom wall;
- Change to the eastern sliding doors and windows to "stackable" sliding doors;
- Add a "sash" window (with translucent glass) for the bathroom (master bedroom) on the southern wall.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2013/0677, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.15(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2013/0677.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	No submissions were received in relation to this application.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p>

Section 4.15 'Matters for Consideration'	Comments
	(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

The modification works do not trigger any further considerations to existing use rights applying to the subject land as they do not seek to intensify the use or expand the building footprint, height, setbacks or landscaping for the existing buildings. Existing use rights were addressed under the original development assessment of DA2013/0677.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
NECC (Riparian Lands and Creeks)	No objections with no conditions recommended as the modifications to the building do not impact the natural waterway or riparian bushland.
Parks, reserves, beaches, foreshore	Parks, reserves and foreshores have reviewed the modification application and no objection approval and no conditions are recommended.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposed modification was referred to <i>Ausgrid</i> . No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
Aboriginal Heritage Office	The modification works are within the existing residential building footprint and will not disturb any remnant bushland or rock outcrops. The AHO previously provided referral conditions of consent included

External Referral Body	Comments
	with DA2013/0677 and no change those original conditions is required.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Building Sustainability Index: BASIX) 2004

The provisions of SEPP Basix were addressed under the original approval and no change to the Basix assessment is required for the modification work.

SEPP (Infrastructure) 2007

The provisions of SEPP Infrastructure were addressed under the original development assessment and no change to the Service Authority referral requirements is applicable for the modification.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Approved	Proposed	Complies
Height of Buildings:	8.5m	8.7m (Existing house, as approved) 8.3m (Alteration and additions)	8.3m (New wall section)	Yes

Compliance Assessment

Clause	Compliance with Requirements
5.3 Development near zone boundaries	Yes
6.1 Acid sulfate soils	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	7.2m	No change	Yes
B3 Side Boundary Envelope - South	45 degrees at 4m	Within envelope	No change	Yes
B3 Side Boundary Envelope - North	45 degrees at 4m	Breach of envelope (Existing - no change)	No change	No (As approved)
B5 Side Boundary Setbacks - South	0.9m	6.6m (Existing dwelling) 0.9m (Garage building)	No change No change	Yes Yes
B5 Side Boundary Setbacks - North	0.9m	0.1m - 1.7m (Existing dwelling)	No change	Yes
B7 Front Boundary Setbacks (Notting Lane)	Merit Assessment	3.3m (Existing dwelling) 13.0m (Garage building)	No change No change	No (As approved) Yes
B911 Foreshore Setback	15m	7.9m to 10.7m (Dwelling wall) 21.6m (Garage building)	No change No change	No (As approved) Yes

D1 Landscaped Open Space (LOS) and Bushland Setting	40% (439.2sqm)	28% (307.4sqm)	No change	Yes (As approved)
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Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

Section 94 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2017/0338 for Modification of Development Consent DA2013/0677 granted for Alterations and additions to a dwelling house on land at Lot 1 DP 586163,4 Notting Lane, COTTAGE POINT, subject to the conditions printed below:

Add Condition No.1A - Modification of Consent - Approved Plans and Supporting Documentation, to read as follows:

"1A. Modification of Consent Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A01 Site Plan S96	Received 21.12.2017	Karla Wilford Architect
A03 Floor Plan S96	Received 21.12.2017	Karla Wilford Architect
A04 East Elevation S96	Received 21.12.2017	Karla Wilford Architect
A05 North Elevation S96	Received 21.12.2017	Karla Wilford Architect
A07 South Elevation S96	Received 21.12.2017	Karla Wilford Architect

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Report CR-103-2	11.12.2017	Sydney Bushfire Consultants

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)"

In signing this report, I declare that I do not have a Conflict of Interest.

Signed




Alex Keller, Planner

The application is determined under the delegated authority of:



Steven Findlay, Manager Development Assessments




















ATTACHMENT A

Notification Plan	Title	Date
 2017/535430	Plan - Notification	21/12/2017

ATTACHMENT B

Notification Document	Title	Date
 2017/538840	Notification Map	22/12/2017

ATTACHMENT C

Reference Number	Document	Date
 MOD2017/0338	4 Notting Lane COTTAGE POINT NSW 2084 - Section 96 Modifications - Section 96 (2) Environmental Impact	21/12/2017
 2017/534517	DA Acknowledgement Letter - Garry David Sexton	21/12/2017
 2017/535239	Development Application Form	21/12/2017
 2017/535247	Applicant Details	21/12/2017
 2017/535423	Cost Summary Report	21/12/2017
 2017/535427	Plans - Survey	21/12/2017
 2017/535430	Plan - Notification	21/12/2017
 2017/535433	Report - Statement of Environmental Effects	21/12/2017
 2017/535437	Report - Bushfire	21/12/2017
 2017/535441	Plans - Internal	21/12/2017
 2017/535440	Plans - External	21/12/2017
 2017/535446	Plans - Master Set	21/12/2017
 2017/538157	Natural Environment Referral Response - Riparian	22/12/2017
 2017/538719	DA Acknowledgement Letter (not integrated) - Garry David Sexton	22/12/2017
 2017/538804	Notification Letter - 10	22/12/2017
 2017/538815	delete	22/12/2017
 2017/538840	Notification Map	22/12/2017
 2018/128034	Parks, Reserves and Foreshores Referral Response	21/02/2018
 2018/324941	Working Plans	28/05/2018